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AUG 21 2007

OFFICE OF PETITIONS

In re Application of:	: DECISION ON REQUEST
Macom et al.	: FOR REVIEW OF
Patent No. 7,122,207	: PATENT TERM ADJUSTMENT
Application No. 09/848448	: and
Filing or 371(c) Date: 05/03/2001	: NOTICE OF INTENT TO ISSUE
Atty Docket No. TN1A CIP	: CERTIFICATE OF CORRECTION

This letter is in response to the "PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b)," filed November 17, 2006. Pursuant to patentee's duty of good faith and candor to the Office, patentee requests confirmation of the issuance of a patent term adjustment of 446 days.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **three-hundred seventy-seven (377)** days.

On October 17, 2006, the above-identified application matured into U.S. Patent No. 7,122,207, with a revised patent term adjustment of 446 days. On November 17, 2006, patentee submitted the instant comment. Patentee states no basis for the request for review of the patent term adjustment.

Nonetheless, a review of the application history confirms that an incorrect number of days were determined for Applicant delay. A review of the application history reveals that the reduction of 10 days for applicant delay in filing a supplemental response on March 13, 2003, after filing an Amendment on March 3, 2003, in response to the final Office action mailed January 24, 2003, is incorrect. 37 CFR 1.704(c) provides, in pertinent part, that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following

circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

- (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, after filing a response (Amendment), on March 3, 2003, applicants filed a supplemental response, an Information Disclosure Statement (IDS), on March 13, 2003. However, as the Amendment filed March 3, 2003 was not in compliance with 35 U.S.C. § 1.113(c), the period for reply to the final rejection mailed January 24, 2003, continued to run. The proper reply, a Notice of Appeal, was not received in the Office until April 28, 2003. Pursuant to 37 CFR § 1.704(b), the patent term adjustment should have been reduced by four days for applicant delay, from April 25, 2003, to April 28, 2003, in filing a proper reply to the final rejection.

Additionally, Applicant should have been assessed an additional delay of seventy-five (75) days pursuant to 37 C.F.R. § 1.704(c)(8). After filing a Request for Continued Examination ("RCE") on January 14, 2004, Applicants filed a supplemental response, an Information Disclosure Statement (IDS) on March 29, 2004. The record supports a conclusion that this additional response was not expressly requested by the examiner. Further, the IDS did not include a 1.704(d) statement¹. Accordingly, the PTA should have been reduced by 75 days, the number of days beginning on the day after the date the initial reply was filed, January 15, 2004, and ending on the date that the second supplemental reply or other such paper was filed, March 29, 2004.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is THREE HUNDRED SEVENTY-SEVEN (377) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of

¹ A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable. 37 CFR 1.704(d) (Emphasis supplied).

correction indicating that the term of the above-identified patent is extended or adjusted by **THREE HUNDRED SEVENTY-SEVEN (377) days.**

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods, at (571) 272-3232.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" and last name "Johnson" clearly distinguishable.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR Screen

Day : Monday
Date: 8/20/2007

PALM INTRANET

Time: 12:35:00

PTA Calculations for Application: 09/848448

Application Filing Date:	05/03/2001	PTO Delay (PTO):	477
Issue Date of Patent:	10/17/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	377
PTO Delay Adjustment:	-69		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
102	08/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		75	
101	08/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
100	08/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	10		
95	10/17/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	24		90
94	08/28/2006	EXPORT TO FINAL DATA CAPTURE			
93	08/25/2006	DISPATCH TO FDC			
92	08/25/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
91	08/25/2006	WORKFLOW - REQUEST FOR RCE - FINISH			
90	05/23/2006	ISSUE FEE PAYMENT VERIFIED			
89	08/17/2006	FINISHED INITIAL DATA CAPTURE			
88	05/26/2006	CORRESPONDENCE ADDRESS CHANGE			
87	05/23/2006	ISSUE FEE PAYMENT RECEIVED			
85	02/27/2006	MAIL NOTICE OF ALLOWANCE			
84	02/27/2006	MAIL EXAMINER'S AMENDMENT			
83	02/21/2006	ISSUE REVISION COMPLETED			
82	02/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
81	02/21/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
80	10/04/2001	REFERENCE CAPTURE ON IDS			
79	02/17/2006	EXAMINER'S AMENDMENT COMMUNICATION			
78	02/17/2006	NOTICE OF ALLOWABILITY			
77	02/09/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	01/25/2006	REFERENCE CAPTURE ON IDS			

75	01/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	01/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	01/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	01/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	11/28/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
70	12/07/2005	DATE FORWARDED TO EXAMINER			
69	11/28/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
68	12/07/2005	DATE FORWARDED TO EXAMINER			
67	11/28/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		5	65
66	12/07/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
65	08/23/2005	MAIL FINAL REJECTION (PTOL - 326)	12		62
64	08/19/2005	FINAL REJECTION			
63	04/14/2005	DATE FORWARDED TO EXAMINER			
62	04/11/2005	RESPONSE AFTER NON-FINAL ACTION			
61	11/03/2004	EXPORT TO INITIAL DATA CAPTURE			
60	01/11/2005	MAIL NON-FINAL REJECTION	242		54
59	01/10/2005	NON-FINAL REJECTION			
58	03/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	12/20/2004	DATE FORWARDED TO EXAMINER			
56	01/14/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
55	12/20/2004	DATE FORWARDED TO EXAMINER			
54	01/14/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
53	12/20/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	11/10/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
51	01/14/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	10/21/2003	MAIL NOTICE OF ALLOWANCE	110		27
49	10/21/2003	MAIL EXAMINER'S AMENDMENT			
48	10/20/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			

47	10/20/2003	CASE DOCKETED TO EXAMINER IN GAU			
46	10/20/2003	EXAMINER'S AMENDMENT COMMUNICATION			
45	10/20/2003	NOTICE OF ALLOWABILITY			
44	10/15/2003	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	09/17/2003	DATE FORWARDED TO EXAMINER			
42	09/08/2003	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
40	09/08/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	08/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	08/12/2003	MAIL ADVISORY ACTION (PTOL - 303)			
37	08/09/2003	ADVISORY ACTION (PTOL-303)			
36	07/20/2003	DATE FORWARDED TO EXAMINER			
35	07/16/2003	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
34	07/16/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	06/23/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	04/28/2003	NOTICE OF APPEAL FILED			
31	03/13/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		10	27
30	03/19/2003	MAIL ADVISORY ACTION (PTOL - 303)			
29	03/18/2003	ADVISORY ACTION (PTOL-303)			
28	03/13/2003	DATE FORWARDED TO EXAMINER			
27	03/03/2003	AMENDMENT AFTER FINAL REJECTION			
26	01/24/2003	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
25	01/24/2003	MAIL FINAL REJECTION (PTOL - 326)			
24	01/23/2003	FINAL REJECTION			
23	01/21/2003	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
21	11/22/2002	DATE FORWARDED TO EXAMINER			
20	10/29/2002	RESPONSE AFTER NON-FINAL ACTION			
19	10/29/2002	TERMINAL DISCLAIMER FILED			
18	08/08/2002	MAIL NON-FINAL REJECTION	89		15
17	07/25/2002	NON-FINAL REJECTION			
16	07/25/2002	DATE FORWARDED TO EXAMINER			

15	01/11/2002	RESPONSE TO ELECTION / RESTRICTION FILED		16	10
14	01/11/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	07/25/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	03/18/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	10/04/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/26/2001	MAIL RESTRICTION REQUIREMENT			
9	09/26/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
8	09/10/2001	PETITION DECISION - GRANTED			
7	07/25/2001	PETITION ENTERED			
6	08/02/2001	CASE DOCKETED TO EXAMINER IN GAU			
5	08/01/2001	APPLICATION DISPATCHED FROM OIPE			
4	07/11/2001	CORRESPONDENCE ADDRESS CHANGE			
3	07/11/2001	CORRESPONDENCE ADDRESS CHANGE			
2	06/28/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/03/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,122,207 B2

DATED : October 17, 2006

INVENTOR(S) : Ullah et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (446) days

Delete the phrase "by 446" and insert – by 377 days--

" Draft "